

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

WP(C).No. 20669 of 2004(I)

PETITIONER:

JOSEPH J.PALATHARA,
SILVER PALACE, MULLACKEL, ALAPPUZHA.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVT. SECRETARIATE, TRIVANDRUM.
2. SECRETARY TO GOVERNMENT,
COMMERCIAL TAXES, TRIVANDRUM.
3. COMMISSIONER,
COMMERCIAL TAXES, TRIVANDRUM.
4. SALES TAX OFFICER,
SECOND CIRCLE, ALAPPUZHA.

BY G.P. SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28/11/2007, ALONG WITH WPC NO. 11051 OF 2005, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 20669/2004)

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF ASSESSMENT ORDER DT.6.12.2003.

P1(a): DEMAND NOTICE DT.5.3.2004.

TRUE COPY

PA TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

.....
W.P.(C) Nos.20669/2004 & 11051/2005
.....

Dated this the 28th day of November, 2007.

JUDGMENT

The petitioner is challenging the relative difference in rate of tax on old gold ornaments and old silver ornaments on the ground of discrimination. The petitioner, a dealer in silver ornaments, is purchasing old silver ornaments and making and selling new ornaments. According to the petitioner, sales tax on old gold and silver ornaments was at a uniform rate of 3% initially. However, by SRO 1091/99 the rate of tax on old gold ornaments was reduced to 1%. So far as the old silver ornaments are concerned, rate of tax refixed is 4%. Government Pleader sought to justify the difference in tax on the ground that value of gold and silver are incomparable. Although the value of gold is 100 times more than that of silver. Therefore, the tax incidence on same quantum of the material is much higher for gold even after reduction of tax. In the circumstances, I do not find any substance in the grievance of the petitioner, more so when the Government enjoys vide discretion in regard to levy of tax. The W.Ps. are devoid of any merit and are dismissed.

C.N.RAMACHANDRAN NAIR

Judge

pms